

**Application No.: 10/821,191**

**IN THE DRAWINGS:**

Please remove drawing and replace with replacement sheets enclosed herewith. Support for these corrections in the drawings is found on page 11 lines 16-17 of the specification.

**REMARKS**

**I. Introduction**

Claims 1-24 are pending in this application, of which 9-11, 16-17, 20 and 22 have been cancelled. Claims 1-8, 12-15, 18 and 19 have been amended. The amendment to claim 1 is supported by original claims 9, 10 and claim 11 which was objected to as allowable if rewritten in independent form. The amendment to claim 1 is further supported by specification page 14 lines 31-36. The amendments to claims 2-3, and 12-15 correct grammatical errors. Support for the amendments to claims 4-8 and 19 is found on page 17 lines 10-16 of the specification. Support for the amendment to claim 18 is supported by original claim 20, which was objected to as allowable if rewritten in independent form. As such no new matter had been introduced by this amendment.

**II. Specification**

The Examiner objected to the title of the invention for allegedly not being descriptive.

According to 37 CFR 1.72:

(a)The title of the invention may not exceed 500 characters in length and must be as short and specific as possible. Characters that cannot be captured and recorded in the Office's automated information systems may not be reflected in the Office's records in such systems or in documents created by the Office. Unless the title is supplied in an application data sheet (§ 1.76), the title of the invention should appear as a heading on the first page of the specification.

The Applicant's respectfully submit that the title "Flip Top Closure" is short and specific to the claimed invention.

**III. Claim Rejections under 35 U.S.C. § 112, second paragraph**

Claims 1-15, 17 and 21 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention.

As to claim 1, the Examiner specifically contends that the claim is unclear as to how the first sealing portion is “at least adjacent” the top portion. Applicants respectfully submit that the amendment to claim 1, wherein the term “at least adjacent” has been deleted, and the claim now reciting “a first sealing portion depending from the top portion . . .,” clearly describes the relationship between the first sealing portion and the top portion. As such, it is respectfully requested that the rejection be withdrawn and the claim allowed.

Furthermore, the rejection of dependent claims 2-8, 12, 13-15 and 21 should also be withdrawn and the claims allowed as the claims depend from and further distinguish allowable claim 1.

Claims 5 and 6 were alleged to lack antecedent basis for the limitation “the frangible bridges” in line 2. Claim 4 from which claims 5 and 6 depend has been amended to recite that the closure includes at least one frangible bridge. As discussed above, support for this amendment is found on page 17 lines 10-16 of the specification.

Furthermore, claim 9, which was alleged to lack antecedent basis, has been cancelled, the features of which have been incorporated in independent claim 1. Claim 17 has also been cancelled, thereby obviating the rejection of these claims.

#### **IV. Claim Rejections under 35 U.S. C. § 102**

##### **A. Agbay, Sr. (U.S. 4,919,286)**

Claims 18, 19, 23 and 24 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Agbay Sr. (U.S. 4,919,286). The Applicants respectfully disagree with the Examiners position. However, in the interests of expediting prosecution, independent claim 18 has been amended to include the limitations of original claim 20, which was objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form,

including all of the limitations of the base claim and any intervening claims. Neither Agbay, Sr., nor any of the other cited prior art discloses the instant invention as recited in claim 18:

A closure suitable for attachment to a container having an end portion having a free end defining an opening of the container, said end portion having a retaining flange extending outwardly from the end portion and spaced a distance from the free end thereof, the closure comprising: . . . a support ring which is connected to said skirt portion by a frangible connection;

wherein said support ring comprises a generally cylindrical body portion having a rib extending inwardly of the body portion that provides a lip having an inner free edge to engage under the retaining flange, and an undercut providing an abutment surface that is formed in the inner surface of the body portion above the rib and which is engageable with an upper surface of the retaining flange on relatively downward movement of the support ring to the end portion;

wherein the undercut defines the upper extremity of a region of the body portion that is thinner than the body portion immediately above and below that region.

Accordingly, claim 18 is allowable and dependent claims 19 and 23 are also allowable as they depend from and further distinguish the invention.

**B. Young et al (U.S. 4,828,127) and Berglund (U.S. 4,505,401)**

Claims 16 and 17, were rejected under 35 U.S.C. § 102(b) and Berglund (U.S. 4,505,401) as allegedly being anticipated by Young et al (U.S. 4,828,127). These claims have been cancelled, thereby obviating the rejection.

**V. Claims Rejections under 35 U.S.C. § 103(a)**

**A. Agbay, Sr. in view of Tansey (U.S. 5,782,369)**

The Examiner rejected claims 1, 2, 4, 9, 13-15, and 21 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Agbay in view of Tansey (U.S. 5,782,369).

As to claim 1, the Examiner concedes that Agbay Sr. fails to disclose that the length of the second portion is such that, during attachment of the closure with the end portion of the container, the end portion of the container contacts the second portion and pushed it upwardly

and at least towards the first sealing portion of the closure to form a seal between the end portion of the container and the closure. Tansey is therefore relied upon for the alleged disclosure of this feature. Applicants respectfully disagree.

However, in the interests of expediting prosecution, claim 1 has been amended to include all of the limitations of original claim 11, which was indicated as being allowable if rewritten to overcome the rejections under 35 U.S.C. § 112, second paragraph. As noted above, claim 1 has been amended to overcome the rejection under 35 U.S.C. § 112, second paragraph. Moreover, none of the prior art teaches the instant invention as recited in currently amended claim 1. Therefore, it respectfully submitted that claim 1 is allowable.

Furthermore, dependent claims 2, 4, 9, 13-15, and 21 are allowable for at least the same reasons as claim 1 from which they depend and further distinguish the invention.

**B. Sondal (U.S. 4,860,907) in view of Tansey**

Claims 1, 2, 4-6, 9, 10, 13-15 and 21 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Sondal (U.S. 4,860,907) in view of Tansey. Applicants disagree with this position.

However, in the interests of expediting prosecution, claim 1 has been amended as discussed above. Specifically, claim 1 has been amended to incorporate all of the features of original claim 11 which was indicated as being allowable if rewritten to overcome the rejections under 35 U.S.C. § 112, second paragraph.

Moreover, claim 1 has been amended to overcome the rejection under 35 U.S.C. § 112, second paragraph by deleting the term “at least adjacent” and amending the claims to recite “a first sealing portion depending from the top portion . . .,” thereby clearly describing that the relationship between the first sealing portion and the top portion.

As such, claim 1 clearly defines the instant invention over the prior art and it is respectfully requested that the claim be allowed.

Furthermore, dependent claims 2, 4-6, 9, 10, 13-15 and 21, which further distinguish the invention of claim 1, should also be allowed.

**C. Sondal in view of Tansey and further in view of Kohl (U.S. 5,499,736).**

Claim 3 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Sondal in view of Tansey and further in view of Kohl (U.S. 5,499,736). Applicants disagree.

However, in the interests of expediting prosecution, claim 1 has been amended to include all of the limitations on original claim 11, which was indicated as being allowable if rewritten to overcome the rejections under 35 U.S.C. § 112, second paragraph. As noted above, claim 1 has been amended to overcome the rejection under 35 U.S.C. § 112, second paragraph. Moreover, none of the prior art teaches the instant invention as recited in currently amended claim 1. Therefore, it is respectfully submitted that claim 1 is allowable, and furthermore, that claim 3 is allowable as it depends from and further distinguishes the invention.

**D. Sondal in view of Tansey and further in view of Persch (U.S. 4,638,917)**

Claim 7 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Sondal in view of Tansey and further in view of Persch (U.S. 4,638,917). Applicants disagree.

However, in the interests of expediting prosecution, claim 1 has been amended to include all of the limitations on original claim 11, which was indicated as being allowable

if rewritten to overcome the rejections under 35 U.S.C. § 112, second paragraph. As noted above, claim 1 has been amended to overcome the rejection under 35 U.S.C. § 112, second paragraph. Moreover, none of the prior art teaches the instant invention as recited in currently amended claim 1. Therefore, it is respectfully submitted that claim 1 is allowable, and furthermore, that claims 4 and in turn, claim 7 is allowable as it depends from and further distinguishes the invention of claim 1.

**E. Sodal in view of Tansey and Persch (U.S. 4,638,917 and further in view of Mattia et al (U.S. 5,033,632).**

Claims 7 and 8 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Sodal in view of Tansey and Persch (U.S. 4,638,917 and further in view of Mattia et al (U.S. 5,033,632). Applicants disagree.

However, in the interests of expediting prosecution, claim 1 has been amended to include all of the limitations on original claim 11, which was indicated as being allowable if rewritten to overcome the rejections under 35 U.S.C. § 112, second paragraph. As noted above, claim 1 has been amended to overcome the rejection under 35 U.S.C. § 112, second paragraph. Moreover, none of the prior art teaches the instant invention as recited in currently amended claim 1. Therefore, it is respectfully submitted that claim 1 is allowable, and furthermore, that claims 4 and in turn claims 7 and 8 are allowable as they depend from and further distinguish the invention of claim 1.

**F. Sondal in view of Tansey and further in view of Dutt et al. (U.S. 4,856,665).**

Claim 13 is rejected under 34 U.S.C. 35 § 103(a) as allegedly being unpatentable over Sondal in view of Tansey and further in view of Dutt et al. (U.S. 4,856,665).

Applicants respectfully disagree.

However, in the interests of expediting prosecution, claim 1 has been amended to include all of the limitations on original claim 11, which was indicated as being allowable if rewritten to overcome the rejections under 35 U.S.C. § 112, second paragraph. As noted above, claim 1 has been amended to overcome the rejection under 35 U.S.C. § 112, second paragraph. Moreover, none of the prior art teaches the instant invention as recited in currently amended claim 1. Therefore, it is respectfully submitted that claim 1 is allowable, and furthermore, that claim 13 is allowable as it depends from and further distinguishes the invention of claim 1.

In view of the above amendments and remarks, Applicants submit that this application should be allowed and the case passed to issue. If there are any questions regarding this Amendment or the application in general, a telephone call to the undersigned would be appreciated to expedite the prosecution of the application.



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To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Aamer S. Ahmed

Registration No. 58,958

600 13<sup>th</sup> Street, N.W.  
Washington, DC 20005-3096  
Phone: 202.756.8000 ASA:MWE  
Facsimile: 202.756.8087  
**Date: July 9, 2007**

**Please recognize our Customer No. 20277  
as our correspondence address.**